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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/852,827	05/10/2001	Scott Harvey Demsky	AUS920010224US1	5442

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EXAMINER

RETTA, YEHDEGA

ART UNIT	PAPER NUMBER
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3622

DATE MAILED: 12/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/852,827	<b>Applicant(s)</b> DEMSKY ET AL. <span style="float: right;">120</span>	
	<b>Examiner</b> Yehdega Retta	<b>Art Unit</b> 3622	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

**A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 21 January 2004.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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## DETAILED ACTION

### *Response to Amendment*

This office action is responsive to amendment filed September 27, 2004. Applicant amended claims 1-13 and 15-19.

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Toohey U.S. Patent No. 6,405,176, further in view of Official Notice

Regarding claims 1-4, Toohey teaches providing different suppliers of items offered for sale at virtual store; presenting display screen, enabling selection and presenting purchase summary to customers (see col. 3 line 36 to col. 4 line 23). Toohey teaches processing multiple store level electronic shopping carts in an e-commerce mall, the shoppers being provided with the convenience of the single payment transaction for all shopping in the virtual mall (see abstract). Toohey also teaches aggregating each shopping cart of each individual store into a single transaction (see col. 3 lines 1-10 and col. 4 lines 24-40). Toohey does not explicitly teach providing virtual store discount schedules, including separate discount schedules, for each supplier and presenting the appropriate discount as determined accordance to the discount schedule. Official notice is taken that is old and well known in the art of on-line shopping for merchants to provide variety of product discounts, such as current specials, volume discounts or

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group discounts and to calculate the price based on the specified discount before displaying the price on the shopping cart. It would have been obvious to one ordinary skill in the art at the time of the invention to incorporate individual merchants' discount into the aggregated shopping virtual ledger of Toohey. It would have been obvious for Toohey's multiple shopping carts to include the discounts provided by each merchant and to process the virtual ledgers including the discount at the mall-level.

Regarding claims 5 and 6 teaches enabling confirmation of the purchase of the selected items and saving the sales information records ... (see fig. 2 and col. 2 line 21 to col. 3 line 10).

Claims 8-11 are rejected as stated above in claims 1-4 respectively.

Claims 12-14 are rejected as stated above in claims 5 and 6 respectively.

Regarding claims 15-18, Toohey teaches a system bus; a CPU, a memory and means for receiving input from customer system, memory for storing different suppliers items offered for sale at virtual store; presenting display screen, enabling selection and presenting purchase summary to customers (see col. 3 line 36 to col. 4 line 23). Toohey teaches processing multiple store level electronic shopping carts in an e-commerce mall, the shoppers being provided with the convenience of the single payment transaction for all shopping in the virtual mall (see abstract). Toohey also teaches aggregating each shopping cart of each individual store into a single transaction (see col. 3 lines 1-10 and col. 4 lines 24-40). Toohey does not explicitly teach providing virtual store discount schedules, including separate discount schedules, for each supplier and presenting the appropriate discount as determined accordance to the discount schedule. Official notice is taken that is old and well known in the art of on-line shopping for merchants to provide variety of product discounts, such as current specials, volume discounts or

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group discounts and to calculate the price based on the specified discount before displaying the price on the shopping cart. It would have been obvious to one ordinary skill in the art at the time of the invention to incorporate individual merchants' discount into the aggregated shopping virtual ledger of Toohey. It would have been obvious for Toohey's multiple shopping carts to include the discounts provided by each merchant and to process the virtual ledgers including the discount at the mall-level.

Claims 19-21 are rejected as stated above in claims 5 and 6 respectively.

*Response to Arguments*

Applicant's arguments filed September 27, 2004 have been fully considered but they are not persuasive.

Applicant in his argument states that Toohey does not disclose, teach or even suggest a **virtual store discount system in which different suppliers provide different discount schedules**. Examiner is aware that Toohey does not explicitly disclose the virtual discount, however Toohey teaches a computer-based data processing system for managing electronic commerce in a virtual mall having a plurality of virtual stores, including a plurality of shopping baskets, each electronic shopping basket corresponding to a single electronic commerce shopper; a plurality of virtual ledgers for each virtual store visited by each shopper, each virtual ledger having purchase data for the store items selected for purchase in one virtual store and means for associating all virtual ledgers in which each electronic commerce shopper has selected at least one store item for purchase with each shopper's corresponding electronic shopping basket in a manner transparent to each shopper and means for means for processing payment for all store items contained in all virtual ledgers associated with a single one of

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**the electronic shopping baskets in a single transaction** (see col. 2 line 52 to col. 3 line 10).

Since Toohey's system integrates every transaction of each virtual store in to single transaction, it would be obvious for the discount provided by each store to be included n the single transaction. Toohey teaches providing a virtual store transaction for a number of different suppliers of items offered for sale at a virtual store. Official Notice is taken that is old and well known for individual stores to provide discount. The prior art (Blinn et al. US 6,058,373) is provided to support the Official Notice taken by Examiner. This prior art was provided in the previous office action as prior art made of record and not relied upon. Blinn teaches providing different promotions offered in a virtual store (see fig. 4-6, col. 3 line 60 to col. 3 line 14, col. 17 lines 23-35, col. 24 line 54 to col. 25 line 45, col. 32 lines 18-50 and col. 36 line 42 to col. 37 line 7. As indicated Blinn teaches individual virtual stores providing different type of promotion therefor, it would have been obvious, that the discount provided by each transaction (of each store), as disclosed by Blinn, to be included in the single mall checkout event (single transaction) of Toohey. The Official Notice taken by the Examiner is maintained.

Regarding to applicant's argument in regard to claim 6-7, 13-14 and 20-21, nowhere do those claims recite notifying the suppliers of the discounts provided in those records. Even if the claim includes such limitation, Toohey teaches processing the virtual ledgers at the mall-level without sacrificing the collection of purchase data for each store-level transaction, which provides the virtual stores transaction data to update respective point of sale systems (see abstract and col. 2 lines 1-27 and col. 3 lines 1-10). As stated before providing discount at store level being well known, there is no purpose for the stores to receive transaction data without the discount data or the adjusted price of each transaction.

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In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992).

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

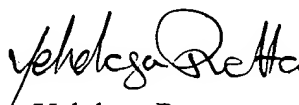
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however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yehdega Retta whose telephone number is (703) 305-0436. The examiner can normally be reached on 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber can be reached on (703) 305-8469. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Yehdega Retta  
Primary Examiner  
Art Unit 3622

YR